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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/532,140	03/21/00	GAUMER	1966

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HM22/0618

EXAMINER
PRYOR, A

ART UNIT	PAPER NUMBER
1616	2

DATE MAILED: 06/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/632,140

Applicant(s)
Gaumer et al

Examiner
Alton Pryor

Art Unit
1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☒ Claim(s) 40 and 41 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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Detailed Action

Claim Rejection under 35 U.S.C. 112, 2nd

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-19,21-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4-18,21-36, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

3. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is: What object is the composition being applied to?

Claim Rejection under 35 U.S.C. 102(e)

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

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by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

5. Claim 37 is rejected under 35 U.S.C. 102(e) as being anticipated by Kaesler et al (US 6,183,794; 2/6/01).

Kaesler et al teaches a method of inhibiting microorganism formation in an animals food comprising applying a composition comprising ammonia and propionic acid to animal feed.. Kaesler also teaches that ammonium propionate, propylene glycol, and EO/PO copolymer, and citric acid can be added to the composition/method. See abstract, column 1 line 67, column 3 line 11 - column 4 line 35.

Claim Rejection under 35 U.S.C. 103(a)

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-36,38,39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaesler et al above and Gluck et al (WO 8900006; 1/12/89).

Kaesler et al teaches a method of inhibiting microorganism formation in an animals food comprising applying a composition comprising ammonia and propionic acid to animal feed. Kaesler also teaches that ammonium propionate, propylene glycol, and EO/PO copolymer, and citric acid can be added to the composition/method. See abstract, column 1 line 67, column 3 line

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11 - column 4 line 35. Kaesler does not teach the composition/method comprising iodine, hydroiodic acid, a PVP-iodine complex, and instant amounts, shelf life, and HLB values. However, Gluck teaches a biocidal composition comprising iodine, hydroiodic acid, citric acid, and a PVP-iodine complex. Gluck teaches that the composition exist at an acidic pH. One would have been expected to combine the two prior art composition. One would have been motivated to do this because both prior art inventions are biocides. In addition one would have been motivated to do this in order to develop a method that would have been effective in controlling the growth of bacteria in animal feed. In the absence of unexpected data, one having ordinary skill in the art would have been expected to optimize the amount of ingredients, shelf life, and HLB value. An artisan would have been motivated to do this in order to develop the most effective composition/method.

Claim Objection

Claims 40,41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not suggest or teach the instant method using cow teats.

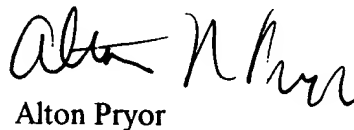
Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

A handwritten signature in black ink, appearing to read 'Alton Pryor', is positioned above the printed name.

Alton Pryor

Patent Examiner, AU 1616

6/16/01